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19 **UNITED STATES DISTRICT COURT**
20 **SOUTHERN DISTRICT OF CALIFORNIA**

21 JIM MAXWELL and KAY MAXWELL,) Case No. 07 CV-2385-JAH (WMC)
22 Individually and as guardians of TREVER)
23 ALLEN BRUCE and KELTEN TANNER) **PROPOSED FRCP 26(f) JOINT**
24 BRUCE; and JIM MAXWELL, as executor) **DISCOVERY PLAN**
25 of the ESTATE OF KRISTIN MARIE)
26 MAXWELL-BRUCE,)
27 Plaintiff,)
28 vs.)
29 COUNTY OF SAN DIEGO; ALPINE FIRE)
30 PROTECTION DISTRICT; VIEJAS FIRE)
31 DEPARTMENT; DEPUTY LOWELL)
32 BRYAN "SAM" BRUCE; DOES 1-50,)
33 Defendants.)
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1 1. Pursuant to Rule 26(f) of the Federal Rules of Civil Procedure ("FRCP 26(f)"),
 2 Steven T. Coopersmith, and Todd Thibodo, attorneys for Plaintiffs, Morris G. Hill, Deputy
 3 County Counsel for Defendant San Diego County, and Kevin M. Osterberg, for Defendant
 4 Alpine Fire Protection District, met and conferred telephonically on September 2, 2008.

5 2. Pre-Discovery Disclosures: The parties will exchange FRCP 26(a)(1)
 6 disclosures by September 19, 2008. The parties will produce documents contemplated by the
 7 FRCP 26(a)(1) disclosures by September 9, 2008. Pursuant to the Court's Order following the
 8 Early Neutral Evaluation, the parties will also prepare a joint timeline and submit that timeline
 9 on or before September 15, 2008, along with this report.

10 3. Discovery Plan: The parties jointly propose to the Court the following
 11 discovery plan:

12 (A) Plaintiffs propose that discovery will be needed on the following subjects:
 13 The incident of December 14, 2006 as alleged in the Complaint; relevant records
 14 from the Sheriff's Department and Defendant Alpine regarding that incident; records related to
 15 any 911 or emergency calls regarding that incident; records related to the dispatch of
 16 emergency responders regarding that incident; records identifying all individuals at the scene
 17 on December 14, 2006 and the following morning; audio and/or video transcripts of any
 18 Sheriff's Department radio-telephone communications or traffic at, to, or from the scene; audio
 19 and/or video transcripts of any interviews at the scene or of interviews conducted at any time
 20 after the incident; statements taken from any witnesses at any time relevant to the incident;
 21 audio and/or video transcripts of communications with or related to the "Life Flight"; records
 22 for any post-incident review or investigation within the Sheriff's Department or Defendant
 23 Alpine; records related to the policies and procedures of the Sheriff's Department or Defendant
 24 Alpine concerning emergency response and concerning crime scene investigation with an
 25 injured victim, or regarding training thereon; timing of emergency response and treatment of
 26 Kristin Maxwell-Bruce; medical treatment of Kristin Maxwell-Bruce; crime scene investigation
 27 on December 14, 2006 and the following morning; records relating to any medical and/or
 28 coroner's examination of Kristin Maxwell-Bruce; handling of Lowell Bryan "Sam" Bruce at

1 the scene of the incident; records relating to communication and interaction with Kristin
2 Maxwell-Bruce at the scene; communication and interaction with the family of Kristin
3 Maxwell-Bruce on December 14, 2006 and the following morning; and communications
4 between Lowell Bryan "Sam" Bruce and any personnel employed by or connected to
5 Defendants. This list is preliminary only, and Plaintiffs reserve all rights to modify this list
6 and/or add additional categories as discovery proceeds.

7 (B) Defendant County of San Diego proposes that discovery will be needed on
8 the following subjects: information, documents and other items related to plaintiffs' claims for
9 special damages, including loss of support, including financial records, arrangements and
10 resources; information, documents and other items related to plaintiffs' claims for infliction of
11 emotional distress and emotional distress damages, including psychological and psychiatric
12 records and discovery into emotional conditions; information, documents and other items
13 related to plaintiffs' claims that emergency responders caused or contributed to the decedent's
14 death, including the decedent's medical records and discovery into decedent's physical
15 condition and health history.

16 (C) Defendant Alpine Fire Protection District proposes that discovery will be
17 needed on the following subjects outlined by Defendant County of San Diego with regard to
18 Plaintiff's claims and causes of action for the alleged liability for, and cause of, Kristin
19 Maxwell-Bruce's death, and Plaintiff's claims and causes of action for all damages allegedly
20 sustained by Plaintiffs as alleged in Plaintiffs' Complaint

21 The parties propose that all percipient discovery will be completed by June 19, 2009.
22 The parties propose that FRCP 26(a)(2) expert designations and reports be made by June 26,
23 2009, and that rebuttal expert designations and reports be made by July 15, 2009. The parties
24 also propose that all expert discovery will be completed by August 14, 2009.

25 Written discovery shall be pursuant to the Federal Rules of Civil Procedure, Rules 33,
26 34 and 36. Responses will be due 30 days after service. The parties shall meet and confer
27 should there be any disputes about any response before seeking intervention of the Magistrate
28 Judge within thirty (30) days of the response.

1 Each party shall supplement and/or amend disclosures and discovery responses as
2 required by Rule 26(e).

3 4. Evidence Preservation: The parties anticipate that the electronically stored
4 information of relevance ("ESI") in this case will consist primarily of records within the
5 categories of documents described in Paragraph 3, above. The Parties reserve their rights to list
6 additional categories, and such description is for purposes of initial relevance only. The parties
7 will cooperate to produce such information in an electronic or paper format, as appropriate, that
8 is not unduly burdensome on the other parties to review and/or evaluate.

9 The parties understand that production of ESI in electronic form may result in the
10 inadvertent disclosure of privileged information and/or attorney work product. Each party shall
11 promptly notify the other parties upon discovery that any privileged and/or attorney work
12 product has been inadvertently disclosed. Upon receiving such notice from a producing party,
13 the party receiving such privileged or attorney work product information shall promptly
14 preserve it and shall use its best efforts retrieve and preserve all copies that have been made.
15 All such information shall be destroyed or returned to the producing party. In case of any
16 dispute as to the privileged nature of such information, all parties shall preserve it pending
17 resolution of the dispute as contemplated by Rule 26.

18 5. Other Items:

19 No motion to join additional parties and/or amend the pleadings shall be heard after
20 February 9, 2009.

21 All potentially dispositive motions shall be filed and served by September 14, 2009.

22 The Parties request a pretrial conference in October, 2009.

23 The case should be ready for trial by November, 2009 and at this time is expected not to
24 exceed approximately 7 to 10 days.

25 The court's order on these topics may be amended by stipulation of the parties or by
26 order of the court for good reason shown.

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1 Respectfully submitted,

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3 Dated: September 15, 2008

CHARLES G. LA BELLA
STEVEN T. COOPERSMITH
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12 **HAIGHT BROWN & BONESTEEL, LLP**

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17
18
19 **COUNTY OF SAN DIEGO**

20 By: s/Morris G. Hill

21 John J. Sansone, County Counsel
Morris G. Hill, Senior Counsel
22 Attorneys for Defendant
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PROOF OF SERVICE

2 *Maxwell v. County of San Diego, et al.*

3 United States District Court of the Southern District of California

4 Case Number: 07 CV-2385-JAH (WMc)

5 I, Patricia A. Schussler, declare as follows:

6 I am an employee of a member of the bar of this Court at whose direction was made in
 7 the County of San Diego, State of California. I am over the age of 18 and not a party to the
 8 within action; my business address is 401 West "A" Street, Suite 1150, San Diego, California
 92101.

10 On September 15, 2008, I served the foregoing document(s) described as:

PROPOSED FRCP 26(f) JOINT DISCOVERY PLAN

11 on interested parties in this action by placing the original true copy(ies) thereof
 12 enclosed in sealed envelopes as follows:

13 Phillip C. Samouris
 14 Michelle L. Grant
 15 Higgs, Fletcher & Mack LLP
 16 401 West "A" Street, Suite 2600
 17 San Diego, CA 92101-7913
 18 Email: samouris@higgslaw.com
 19 grantm@higgslaw.com

*Counsel for Defendant Viejas Fire
 Department*

20 Kevin Osterberg
 21 Stephen M. Caine
 22 Haight Brown & Bonesteel LLP
 23 3750 University Avenue, Suite 240
 24 Riverside, CA 92501-3313
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*Counsel for Defendant Alpine Fire
 Protection District*

27 John J. Sansoné, County Counsel
 28 Morris G. Hill, Senior Counsel
 1600 Pacific Highway, Room 355
 San Diego, CA 92101-2469
 Email: morris.hill@sdcounty.ca.gov

*Counsel for Defendant County of San
 Diego*

27 **BY EMAIL/ECF** by electronically filing the foregoing with the Clerk of the District Court
 28 using its ECF System, which electronically notifies them via email as indicated above.

1 **BY FIRST CLASS MAIL** I am readily familiar with the firm's practice of collection and
2 processing correspondence for mailing with the United States Postal Service. Under that
3 practice, it would be deposited with United States postal service on that same day with postage
4 thereon fully prepaid at San Diego, California in the ordinary course of business. The envelope
5 was sealed and placed for collection and mailing on that date following ordinary business
6 practices.

7 **BY OVERNIGHT DELIVERY** I am readily familiar with the firm's practice of collection and
8 processing correspondence for mailing with Overnite Express and Federal Express. Under that
9 practice, it would be deposited with Overnite Express and/or Federal Express on that same day
10 thereon fully prepaid at San Diego California in the ordinary course of business. The envelope
11 was sealed and placed for collection and mailing on that date following ordinary business
12 practices.

13 **BY FACSIMILE** Based on agreement of the parties to accept service by fax transmission, I
14 faxed the documents on this date to the person(s) at the fax numbers listed. No error was
15 reported by the fax machine that I used. A copy of the record of the fax transmission, which I
16 printed out, is attached.

17 **BY PERSONAL SERVICE** I served the documents by placing them in an envelope or
18 package addressed to the person(s) at the addresses listed and providing them to a professional
19 messenger service for service on this date.

20 (STATE) I declare under penalty of perjury under the laws of the State of California that
21 the above is true and correct.

22 (FEDERAL) I declare that I am employed in the office of a member of the bar of this
23 court at whose direction the service was made.

24 Executed September 15, 2008, in San Diego, California.

Is/ *Patricia A. Schussler*
Patricia A. Schussler